

Supreme Court of Kentucky


ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF COURT PRACTICE AND PROCEDURE FOR THE 28TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, LINCOLN, PULASKI, AND ROCKCASTLE COUNTIES

Upon recommendation of the Judges of the 28th Judicial Circuit and being otherwise sufficiently advised,

The attached Rules of Court Practice and Procedure for the 28th Judicial Circuit, Family Court Division, Lincoln, Pulaski, and Rockcastle counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 10th day of March 2016.


CHIEF JUSTICE JOHN D. MINTON, JR.

RULES FOR THE FAMILY COURT

28TH JUDICIAL CIRCUIT, DIVISION III

LINCOLN, PULASKI AND ROCKCASTLE COUNTIES, KENTUCKY

RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 INTRODUCTION/PREFACE

These Rules supplement the Kentucky Rules of Civil Procedure (CR) and the Kentucky Family Court Rules of Procedure and Practice (FCRPP). These Rules shall not supplant or apply to the non-Family Court Divisions of the 28th Judicial Circuit. These rules shall supersede any General Order entered previous to the effective date herein. However, General Orders entered following the effective date of these rules shall supersede these rules.

102 EFFECTIVE DATE

These RULES FOR FAMILY COURT OF THE 28th JUDICIAL CIRCUIT shall be effective upon the approval of the Chief Justice of the Kentucky Supreme Court.

103 CITATION

These RULES FOR FAMILY COURT OF THE 28th JUDICIAL CIRCUIT, composed of Lincoln, Pulaski and Rockcastle Counties, Kentucky shall be cited as “**28RFFC ____**”.

104 STYLE

Cases filed in the family court of the 28th judicial circuit shall be styled as follows:

COMMONWEALTH OF KENTUCKY
28th JUDICIAL CIRCUIT
LINCOLN CIRCUIT COURT
DIVISION III (FAMILY COURT)
CASE NO. _____

Or

COMMONWEALTH OF KENTUCKY
28th JUDICIAL CIRCUIT
PULASKI CIRCUIT COURT
DIVISION III (FAMILY COURT)
CASE NO. _____

Or

COMMONWEALTH OF KENTUCKY
28th JUDICIAL CIRCUIT
ROCKCASTLE CIRCUIT COURT
DIVISION III (FAMILY COURT)
CASE NO. _____

105 JURISDICTION

- A. Family Court of the 28th Judicial Circuit (Lincoln, Pulaski, and Rockcastle Counties) shall share concurrent jurisdiction with the 28th Judicial District Court (Pulaski and Rockcastle Counties) and the 13th Judicial District Court (Lincoln County) to the extent authorized by law.
- B. The jurisdiction of the Family Court of the 28th Judicial Circuit shall include, but not be limited to, cases involving:
- (1) Dissolution of marriage where the parties have minor children in common;
 - (2) Dissolution of marriage where the parties have no minor children in common and a Petition for Dissolution was filed after January 1, 2009;
 - (3) Child custody and time-sharing;
 - (4) Support, maintenance and property distribution;
 - (5) Adoption and termination of parental rights;
 - (6) Domestic Violence;
 - (7) Paternity and UIFSA matters;
 - (8) Dependency, neglect or abuse; and

- (9) Status offenses under KRS Chapter 630, including truancy, beyond control and runaways, except where proceedings under KRS Chapter 635 or 640 are pending.
- C. Civil violations of Emergency Protective Orders or Domestic Violence Orders shall be heard by the Family Court in accordance with the Domestic Violence Protocol under KRS 403.735, which is attached as **Appendix 1**.
- D. Criminal violations of Emergency Protection Orders or Domestic Violence Orders shall be heard by the District Court pursuant to KRS 403.763.

106 CONSOLIDATION OF RELATED CASES

Pursuant to CR 42.01, when two or more different actions are pending in Family Court involving the same parties and common questions of law or fact, those cases may be consolidated at the discretion of the presiding Family Court Judge. Even when such cases are consolidated, the files shall be maintained separately.

107 DISQUALIFICATION OF JUDGE

The Family Court Judge shall complete the appropriate AOC form (Notice of Disqualification) or other disqualification document.

108 HOLIDAYS

Family Court shall adhere to the list of Court holidays established by the Kentucky Court of Justice.

109 ORDER/DECORUM

The Judge will maintain order and courtroom decorum in proceedings before him/her. All persons in the courtroom or on the court floor shall be decently attired. Business attire shall be appropriate dress for all counsel in the courtroom.

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 REGULAR SCHEDULE

- A. Motion hour in **Lincoln** Family Court on the **first Friday** of each month at 9:00 a.m., *ET*, unless otherwise rescheduled by the Court.
- B. Motion hour in **Pulaski** Family Court on the **second** and **fourth Friday** of each month at 9:00 a.m., *ET*, unless otherwise rescheduled by the Court.
- C. Motion hour in **Rockcastle** Family Court on the **third Friday** of each month at 9:00 a.m., *ET*, unless otherwise rescheduled by the Court.
- D. Motions shall be filed and noticed five days (excluding weekends) prior to hearing.
- E. Family Court will furnish a schedule at least monthly of the court dates for juvenile and domestic violence cases. Domestic violence court dates shall be scheduled no more than fourteen (14) days apart.
- F. Family Court dates are regularly scheduled as follows:

Mondays - Pulaski County

9:00 a.m. Dependency, Abuse, Neglect and Status Offenses

1:00 p.m. Dependency, Abuse, Neglect and Status Offenses

Tuesdays – Rockcastle County

9:00 a.m. Domestic Violence

9:30 a.m. Dependency, Abuse, Neglect and Status Offenses

1:00 p.m. Domestic Relations Hearings

Wednesdays – Pulaski County

9:00 a.m. Domestic Violence

10:00 a.m. Domestic Relations Hearings

1:00 p.m. Domestic Relations Hearings

Thursdays – Lincoln County

9:00 a.m. Domestic Violence

9:30 a.m. Domestic Relations Hearings

1:00 p.m. Dependency, Abuse, Neglect and Status Offenses

Fridays – 1st Lincoln – 2nd Pulaski – 3rd Rockcastle – 4th Pulaski

9:00 a.m. Motion Hour/Rule Day

202 MOTION PRACTICE FOR DOMESTIC RELATIONS CASES

- A. Any motion accompanied by an “Agreed Order” and any motion for default judgment may be filed with the Clerk and sent directly to the presiding Family Court Judge for his or her signature. All other motions must be noticed for a hearing at Motion Hour on a Rule Day, except for those contempt matters applying to 28RFFC 204.
- B. Each motion to be heard on a Motion Day shall be filed with the Clerk no later than 3:00 p.m. on the Friday immediately preceding the Motion Day for which the motion has been noticed. Any motion filed after 3:00 p.m. may be placed on the docket at the discretion of the presiding judge. Each motion shall be delivered to opposing counsel, or party not represented by counsel and entitled to notice, no later than 4:00 p.m. on the Friday immediately preceding the Rule Day for which the motion has been noticed. “Service” shall be as described in CR 5.02. If there are concerns of the opposing counsel or party receiving the motion by regular mail, a copy should be sent to them via facsimile, email or hand-delivery. All post-judgment motions must be served upon the opposing party.
- C. Each notice shall state therein, in general terms, the subject matter of the motion and the action of the Court requested by the movant. The motion should contain citations to the relevant law relied upon by the movant. If the motion is complex or requires research of an issue not common to practice

before the Family Court, the parties should provide an advance copy of the motion to the Family Court Judge to allow review and research prior to the hearing.

- D. Any “Agreed Order,” except one dealing solely with a procedural matter such as the method of presenting proof, shall be accompanied by a proposed Findings of Fact, and Conclusions of Law, if involving a final and appealable matter or otherwise required by law.
- E. Except as otherwise ordered by the Court or provided for by the Civil Rules or other Supreme Court Orders as relates to e-filing, the Clerk shall only accept for filing original pleadings, motions, memoranda, proposed orders and other papers. Facsimiles, emails or other copies shall not be filed except as exhibits to an otherwise properly filed document.
- F. All pleadings, motions, memoranda, proposed orders and other papers to be filed with the Court shall be printed or typewritten on one side only of unglazed white paper which is 8.5 inches by 11 inches in dimension, in size 12 font or larger (excluding footnotes), double spaced (except for indented quotations and footnotes), and with at least a one inch margin on each side. All documents exceeding a single page in length shall be paginated. This Rule shall not apply to AOC or other official agency approved forms.
- G. Except as otherwise ordered, when filing pleadings, motions, memoranda or other papers, counsel shall not file copies of relevant reported or un-reported cases or other cited authority unless such case or other authority is unavailable through the use of traditional or computer assisted legal research methods. Counsel may, at a hearing on a pending motion, tender to the Court copies of relevant authority.
- H. When a pending motion is passed or continued at the request of or by agreement of counsel, it shall be the moving party’s obligation to re-notice in writing the motion in accordance with these Rules and the Civil Rules.

203 DISTRIBUTION REQUIREMENT ON ORDERS

Each motion filed in the 28th Judicial Circuit Family Court shall be accompanied by an Order specifying the requested relief of the movant. Further, this Order shall include a distribution list which names the parties to the action or the counsel representing said parties.

The Clerk shall distribute copies of all orders by mail to any unrepresented party or delivery or placement in the receptacles assigned for the attorneys in the clerk's office to the persons listed under DISTRIBUTION and shall certify such mailing, delivery or placement by making a check mark by the person listed and shall initial and date the same at the bottom of the distribution list. All orders and judgments shall contain a distribution list, same to include any acts required of the Clerk by said order or judgment, as set out in the following example:

Distribution:

Hon. John Doe

☐

(Address)

Hon. Michelle Doe

☐

(Address)

Clerk to provide copy to Master Commissioner

☐

Clerk's initials and date

**204. CONTEMPT, MOTIONS FOR CONTEMPT OF COURT,
RESTRAINING ORDERS OR INJUNCTIONS**

Contempt motions involving all Family Court cases shall be heard by the presiding Family Court Judge and shall be noticed for a hearing pursuant to the Court's docket as contained in 28RFFC 201, or at any other time in the sole discretion of the presiding Family Court Judge for judicial economy and in the following manner:

The party moving for a ruling to show cause against another party in a Family Court case shall file the following with the clerk:

- A. A motion for a ruling to show cause and for a hearing date which shall be set by the Family Court Judge or his/her staff.
- B. An affidavit setting forth facts supporting the motion.
- C. An order incorporating the allegation of the affidavit and setting the date which will be provided by the Judge or his/her staff, for the responding party to appear and show cause why he/she should not be held in contempt, e.g.:

[CAPTION]

On _____, Respondent/Petitioner was ordered to pay/do _____
_____. Petitioner/Respondent has filed an affidavit showing prima facie
that the Respondent/Petitioner has failed to _____.

WHEREFORE, IT IS HEREBY ORDERED that the Respondent/Petitioner appear
in the Court on ___ at ___ am/pm to show cause why he/she should not be held in contempt
of Court.

This ___ day of _____, 20___.

JUDGE, _____ CIRCUIT COURT
DIVISION III (FAMILY COURT)

DISTRIBUTION (As set forth in 28RFFC 203)

- D. Proposed Findings of Fact, Conclusions of Law and Order, or if the responding party is subsequently found to be in contempt, shall be tendered by the prevailing party at the request of the presiding Family Court Judge.
- E. The Clerk shall submit these papers to the presiding Judge. If the affidavit shows prima facie that the responding party is in violation of a previous court order, the show cause order will be signed which sets the matter for hearing, and all papers returned to the Clerk's Office.
- F. If appropriate fees, if any, have been paid, the motion, affidavit and order will then be served on the responding party as follows:
 - 1. Pre-Judgment Proceedings - A pre-judgment motion for a Rule for failure to abide by the provisions of a *pendente lite* order shall be served upon opposing counsel, or party not represented by counsel, no later than midnight on the Friday immediately preceding the Rule Day on which the motion is to be heard. "Service" shall be pursuant to CR 5.01 and as described in CR 5.02.
 - 2. Post-Judgment Proceedings - A post-judgment motion for a Rule for failure to abide by the provisions of any order or judgment must be filed with the Clerk no later than ten days prior to the Rule Day on which the motion is to be heard. Notice of such a motion must be served upon the adverse party **and** his attorney of record, if any, at least ten days prior to the Rule Day for which the motion is noticed. Service upon the adverse party shall be as described in CR 5.02. Service upon the opposing attorney of record shall be as described in CR 5.02.
- G. Proof of service on the adverse party must be filed in the record.

205 WARNING ORDER ATTORNEYS AND GUARDIANS AD LITEM APPOINTMENT

Warning Order Attorneys and Guardians ad Litem (on all non-DNA cases) shall be appointed from a list of attorneys who are in good standing with the Kentucky Bar

Association and have been approved by the presiding circuit judges, with each attorney on the list to receive an equal number of appointments. Any attorney not wishing to receive such appointments may have his or her name removed from the list by written notification filed with the Circuit Court Clerk. The presiding circuit judges may remove any attorneys from the list based upon poor performance of duties in the sole discretion of the judges.

206 FEES

- A. Motions for compensation shall be accompanied by an affidavit indicating:
 - 1. The statutory basis for appointment;
 - 2. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
 - 3. That the action or proceedings have been concluded.
- B. Unless objection has been filed, the Clerk shall pay any deposited fee to the Warning Order Attorney or Guardian ad Litem (non-DNA case) as directed by the Court.

207 PAUPERS

Any attorney appointed as Warning Order Attorney or Guardian ad Litem in an *in forma pauperis* proceeding will also be appointed in the next non-pauper action where appointment of a Warning Order Attorney or Guardian ad Litem is requested and in which that attorney is eligible for appointment.

208 DISCOVERY

- A. Efforts to obtain discoverable information or material should be made through the discovery process outlined in CR 33, 34 and 36, prior to seeking an order of the Court to require information or materials to be turned over to the other

party. Nothing in these Rules should be interpreted as prohibiting any party from seeking discovery as outlined in the Civil Rules.

- B. Copies of interrogatories, request for production and requests for admissions made pursuant to CR 33, 34 and 36, shall be filed with the Clerk. Answers to interrogatories, requests for production and requests for admissions shall not be filed unless otherwise directed by the Court. Upon serving answers to any of the foregoing, counsel for the answering party shall file a simple certificate of service and shall identify any matter left unanswered.
- C. Counsel shall make a good faith effort to resolve all discovery disputes. A motion to compel discovery, for entry of a protective order, or for sanctions pursuant to CR 26 or CR 37 shall be filed only if counsel are unable to resolve a discovery dispute. The party seeking entry of an order compelling discovery, entry of a protective order, or for sanctions shall include a “certificate of good faith” signed by counsel which details the efforts to resolve the dispute and that such dispute cannot be resolved without intervention of the Court

209 NOTICE OF SETTLEMENT OR REQUEST FOR CONTINUANCE

Upon settlement of any case or request for a continuance where a trial or hearing has been scheduled, counsel shall promptly notify the Clerk and Court in writing by submission of a proposed order identifying the scheduled trial or hearing date and removing the matter from the hearing calendar. Such notification of settlement is a certification by counsel that all issues have been resolved. If no written notification of settlement or request for continuance is received, the parties and counsel will be expected to appear at the hearing unless otherwise ordered by the Court. Failure to notify the Court or appear at the scheduled hearing may result in a show cause order being issued and a finding of contempt and sanctions.

RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 Time Frames and Statutory Mandates.

All adoptions and termination actions shall strictly comply with FCRPP Section VII., Adoption and Termination of Parental Rights, and shall adhere to the statutory timelines and mandates. Counsel shall have read Wright v. Howard, 711 S.W. 2d 492 (Ky.App. 1986) and its progeny before filing a Petition for adoption or termination of parental rights. IF NOT IN STRICT COMPLIANCE, THE COURT, UPON *SUA SPONTE* REVIEW, MAY DISMISS THE ACTION. See checklist in Appendix 2.

302 Judgment and Findings of Fact.

No later than three (3) business days prior to the Final Hearing, the Petitioner shall tender a proposed Findings of Fact and Conclusions of Law and a separate Judgment of Adoption or Termination of Parental Rights for entry by the Court. Should the Court require revisions, the Petitioner shall tender a revised Findings of Fact and Conclusions of Law and a separate Judgment of Adoption or Termination of Parental Rights within three (3) business days following the Final Hearing for the Court's entry.

The Judgment of Termination of Parental Rights shall include only the name of the child. In the separate Judgment of Adoption, the name of the child shall be changed to conform with the prayer of the petition, pursuant to KRS 199.520.

303 *Guardian Ad Litem.*

- A. *Guardian ad Litem* standards and expectations of practice are articulated by Family Court Policy contained in the Appendix 3.

B. *Guardian ad litem* fee Motion and Affidavit shall be promptly filed at the final hearing or prior to entry of the final judgment. See also 28RFFC 307.

304 Involuntary Termination of Parental Rights.

The summons in the action shall include a statement that termination of parental rights means loss of all rights to custody, co-parenting and communication with the child, and that if termination is granted, the parent will receive no notice of future legal proceedings concerning the child; an explanation of the need to respond immediately to the notice to prepare for trial because important hearings will take place prior to trial; and an explanation of how to find the time and place of hearings in the case. See Appendix 4. Involuntary Termination of Parental Rights Checklist. After service has been perfected on all parties, counsel shall file a motion and schedule a final trial. The Court will automatically schedule a case management conference or pretrial conference 30 days after the filing of the petition and send notice to all parties.

305 Voluntary Termination of Parental Rights.

Along with the Petition for Termination of Parental Rights, a motion to schedule final trial and Order scheduling final trial shall be filed with the Circuit Clerk along with a tendered order. The Clerk shall promptly bring the file to the judicial assistant for scheduling. Within three (3) business days after a petition for the voluntary termination of parental rights is filed, the Court will set a date for a hearing which shall not be more than thirty (30) calendar days after the petition is filed. KRS 625.042(1). See Appendix 5. Voluntary Termination of Parental Rights Checklist.

306 *Guardian ad Litem*/Court-Appointed Counsel in Post-Judgment Matters.

- A. In all post-judgment TPR matters, the *Guardian ad Litem* or court appointed counsel for parent previously appointed by the Court shall continue to serve in such capacity unless otherwise ordered.
- B. If the previously appointed *Guardian ad Litem* or court appointed counsel for parent is unable or unwilling to serve, or if no *Guardian ad Litem* or court appointed counsel for parent has been previously appointed, a *Guardian ad Litem* or court appointed counsel for parent, if the parent is determined to be indigent, shall be appointed pursuant to statutory authority.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401 Scope and Applicability.

The Domestic Violence Protocol and 24 Hour Access Policy for the 28th Judicial Circuit is attached hereto as Appendix 1 and is incorporated herein as if copied in full.

402 Domestic Violence Hearings.

Cases shall be allotted fifteen minutes to ensure that all cases set for a given date and time are heard in a timely manner. If parties require more than fifteen minutes to present their evidence, the Court may assign the parties to a time at the end of the docket or the parties may be given another date. Counsel for either party may approach the bench at the beginning of the docket to advise the Court that an extended evidentiary hearing will be required and the case should be rescheduled to an appropriate date. If the respondent has been served, the emergency protective order shall be reissued at that time and served with a summons containing the new hearing date.

RULE 5 PATERNITY

501 INTRODUCTION/SCOPE AND APPLICABILITY/CASE NUMBER ASSIGNMENT

These Rules shall govern paternity and child support actions pursuant to KRS Chapters 405, 406, and 407.

502 COURT CALENDAR AND FILING DEADLINES

Any motion filed on the Paternity/Child Support “J” docket shall be filed one week in advance of the court date. These motions should be heard on the motion hour date and at the time allotted for child support matters handled through the county attorney’s office.

503 GUARDIANS AD LITEM AND MILITARY ATTORNEYS

- A. Guardians ad Litem for minor defendants and military attorneys shall be appointed from a panel of attorneys who have registered their willingness to accept appointments with the Circuit Court Clerk's Office. Appointments shall be made in rotation according to the register, except in those cases where an emergency exists, a member of the panel previously represented the party, or special language or communication skills are necessary for adequate representation of a party.
- B. Within fifty (50) days of the appointment, the Guardian ad Litem or Military Attorney shall either file an answer on behalf of the Respondent or a report stating that after careful examination of the case that the Respondent is unable to present a defense.

505 REOPENING FEE

Pursuant to FCRPP 14(1), a fee of \$50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.

506 CUSTODY, VISITATION OR OTHER ANCILLARY MATTERS

No custody, visitation or other ancillary matters shall be handled on the paternity docket. The parties must file a separate civil action.

RULE 6 DEPENDENCY NEGLECT AND ABUSE

601 INTRODUCTION/SCOPE AND APPLICABILITY

These Rules shall govern dependency, neglect, or abuse actions as defined by the Kentucky Unified Juvenile Code and known collectively as “dependency actions.”

602 SERVICE OF PROCESS AND NOTICE

- A. The Clerk may prepare and deliver to the Sheriff for service a summons requested by appointed counsel and Guardians Ad Litem. The attorneys shall prepare the subpoenas for their cases.
- B. Except in cases where good cause is shown or an emergency exists, all parties shall be given a minimum of five (5) days notice of all hearings and reviews.

603 EFFECT OF SERVICE ON ONLY ONE PARENT/PERSON EXERCISING CUSTODIAL CONTROL OR SUPERVISION

The judge may permit the temporary removal hearing or the adjudicatory hearing to go forward when one parent has not been served, if it is established on the record that Petitioner has made diligent efforts to serve all other parties in time to permit them to prepare for and participate in the hearing, including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent or other measures in compliance with statutory requirements. The Petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served. If the second parent or persons exercising custodial control or supervision has not been served with the petition prior to a hearing but subsequently notified of the proceedings, the Court shall hear the matter, giving preference to statutory actions seeking entitlement of custody.

604 APPOINTMENT OF COUNSEL FOR INDIGENT PARENTS AND PERSONS EXERCISING CUSTODIAL CONTROL OR SUPERVISION

Counsel shall be appointed from a panel of attorneys who have registered their willingness to accept appointments with the respective Circuit Court Clerk's Office. Appointments shall be made in rotation according to the register, except in those cases where an emergency exists, a member of the panel previously represented the party, or special language or communication skills are necessary for adequate representation of a party.

605 COUNSEL FOR CHILDREN (GUARDIANS AD LITEM)

The Family Court has adopted guidelines for attorneys representing children, attached as **Appendix No. 3.**

606 DISPOSITION HEARINGS

At the dispositional hearing and the FCRPP 30 hearings (the six-month and other reviews and permanency reviews), the Cabinet for Health and Family Services shall provide the court and all parties with the information required pursuant to FCRPP 28 by completing AOC Form DNA-12. The DNA-12 Form shall be provided to any parties or their counsel at least three (3) business days prior to the scheduled hearing. In addition, CHFS shall provide a suggested parenting plan, and after citing specific findings, an explanation of any proposed court-ordered restrictions to be placed on the visits.

607 REQUESTING A COURT REVIEW.

Any party may request the Court to conduct a review hearing at any time. The party requesting the review shall provide a clear statement of why a review hearing is necessary and attach any affidavits deemed appropriate. Notice is required to all parties as set forth in 28 RFFC 202B.

608 CONTINUANCES.

In any case in which the parties waive the 45 day requirement of KRS 620.090(5) or the parties agree to continue the temporary custody order beyond the 45 days, all parties shall agree in writing and state specific reasons why the waiver and/or continuance beyond the 45 days is necessary to serve the best interest of the child, i.e., for accumulation or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause.

RULE 7 DOMESTIC RELATIONS PRACTICE

701 PARENT EDUCATION CLINIC

- A. If there are minor children of a marriage and the court so orders, a proceeding for dissolution of marriage may not be assigned for final hearing until the parties, and minor children of the marriage ages 7 – 17, have attended and completed the approved parent education clinic within 60 days of the date a response is filed or service is made on the Respondent, whichever occurs first, if ordered by the Court pursuant to FCRPP 6(4).
- B. A clinic shall be conducted within this Circuit at least once every 60 days at a time and location according to a schedule approved by the Court. Parties may attend any parent education clinic operated and approved by any other Circuit Court in the State of Kentucky or equivalent court in another state. Judgment dissolving the marriage shall not be entered until the parties have attended and participated in the Parent Education Clinic. A certificate of completion shall be provided to each participant completing the clinic and it shall be the responsibility of each party to file in the court record the certificate.
- C. If a party refuses or fails to attend the clinic after being ordered to attend pursuant to FCRPP 6(4), the Court may make such orders as are just, including, but not limited to one or more of the following: 1) Refusing to assign a trial date or to enter a decree of divorce until the party or parties in violation comply with the order; 2) initiate restrictions to the custody or visitation rights of the offending party; 3) proceed against the offending party for contempt with penalties of a fine or jail.
- D. A fee in an amount to be approved by the Court shall be paid by each party at the time of attending the clinic. Children shall not be permitted to attend the clinic and it is the responsibility of the parties to make necessary arrangements for child care.

- E. Attendance of this clinic may be waived for good cause shown upon motion of the parties.

702 CHILD SUPPORT

Child support shall be determined pursuant to the support guidelines established in KRS 403.212. A Child Support Worksheet may be used in determining said amount. Temporary child support motions may be filed and scheduled for hearing in accordance with the FCRPP 9 or filed for determination by the Court without hearing pursuant to KRS 403.160 (2)(b). It shall be the responsibility of counsel for the recipient of the child to draft, file and mail the wage withholding utilizing the AOC Form 152 and the OMB-0970-0154 if filed by a private party or the CS-89 if filed by the state child support agency, in compliance with FCRPP 9.

703 CHILD CUSTODY

703.1 Temporary Child Custody.

- A. Motions for Temporary Child Custody and Visitation may be set and heard pursuant to the FCRPP 7 and FCRPP 8. Motions may also be heard *ex-parte* pursuant to CR 65.03 and KRS 403.715 *et seq.*

703.2 Disputed Child Custody and/or Parenting Arrangements.

- A. The Court encourages the parties to reach an agreement as to custody and parenting arrangements which are in the best interest of the child(ren).
- B. At such time that it is determined that custody and/or parenting arrangements are in dispute, and the parties are unable to resolve the conflict, a party, through counsel or *pro se*, may seek, or the court, **sua sponte**, may order appropriate action to address the custody and parenting arrangements. The Court adopts the attached schedule contained in Appendix 6, which shall not operate or otherwise be used as a default schedule, but which may be used as a basis upon which to determine appropriate time-sharing/visitation that is in the best interest of the parties and their minor children.

704 Obtaining a Decree of Dissolution in uncontested actions for divorce or legal separation

For Purposes of this Rule, an “uncontested action” is defined as follows:

- A. 1. An action in which there has been filed a separation agreement executed by both parties, and in which no motion to set aside that agreement is pending;
- 2. An action in which the Respondent is before the Court only by warning order service of process, the warning order attorney's report has been filed, and the moving party is requesting only dissolution of the marriage, custody of children over which this Court has jurisdiction and/or division of property located in Kentucky;
- 3. An action in which the Respondent has been served with process pursuant to CR 4.01 and has filed no responsive pleading, and in which the moving party is requesting only limited relief, evidence in support of which can be presented in 15 minutes or less.

B. Proof by Deposition or Interrogatory:

Proof in an uncontested action shall be taken by deposition or interrogatory pursuant to CR 43.04(1). The motion to submit need not be noticed for a regular Motion Hour, but may be tendered to the Family Court Judge by filing the motion in the Clerk's office.

Any motion to submit an uncontested action must be accompanied by a proposed “Findings of Fact, Conclusions of Law, Judgment and Decree” which the moving party desires the Court to adopt.

Any Separation Agreement or Agreed Judgment providing for a child support obligation shall include as an attachment thereto a Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation. If the child support obligation established in the Separation Agreement does not correspond to the child support guidelines contained in KRS Chapter 403, the agreement must state the reason for deviation from the guidelines.

705 Discovery in contested actions for Divorce or Legal Separation

- A. Discovery shall be completed thirty (30) days prior to the final trial date.
- B. It shall be the duty of the party to supplement all required responses in accordance with CR 26.05 not later than thirty (30) days prior to the hearing date or trial date.
- C. Upon motion to the Court, discovery time may be extended in custody issues and complex economic issues, at the discretion of the Court and for good cause shown.

706 Subpoenas for medical, psychiatric, or other privileged records

- A. Subpoenas for hospital records shall be issued pursuant to KRS 422.300 et seq.
- B. Subpoenas and accompanying orders for release of psychiatric and other privileged records shall only be issued by the Family Court upon motion by the requesting party,

accompanied by an appropriate affidavit which shall set forth legitimate grounds for the request. Said affidavit shall specifically state a statutory and/or common-law basis for the issuance of the subpoena and order. The Court shall require a hearing prior to ordering the release of any privileged information.

707 Domestic violence waiver

In any matter before this Court, any party may seek an order from the Court waiving the requirement to share specific information with the opposing party if release of such information would endanger the safety and welfare of the party or another involved person.

708 Motions to set for trial

A motion to set a domestic relations action for trial shall be noticed for any regular Motion Hour. On receipt of such a motion, the Family Court Judge may in his or her discretion set a trial date. Prior to setting a trial date, the Family Court Judge may in his or her discretion set a case management conference.

709 Briefs/statement of desired findings, conclusions and judgments

- A. Each party may submit to the Family Court Judge at the time of trial proposed Findings of Fact, Conclusions of Law and Decree/Judgment which he or she desires the Judge to enter. Following the trial and upon a ruling, the Judge may require the parties to submit Findings, etc., and may set reasonable time limits for the filing of these documents. If briefs are submitted, the Court may set limits as to the length of said briefs and the time for filing with the Court.

- B. In any case tried by deposition or interrogatory, a motion to submit shall be accompanied by a statement of desired Findings of Fact, Conclusions of Law and Judgment. The responding party shall have seven (7) days in which to file a similar statement or object to the motion to submit. If no objection is filed, the case shall stand submitted seven (7) days after the hearing on the motion to submit.

710 Modification

Each Separation Agreement and Final Decree, which includes provisions for parenting time, shall include a statement incorporating the parenting time-sharing schedule ordered by the Court or agreed to by the parties and approved by the Court, and shall also include the following language:

The agreed parenting time-sharing schedule is based on the current residences of the parties. Any parent who wishes to relocate shall comply with the requirements of FCRPP 7(2) prior to such relocation.

RULE 8 STATUS OFFENSES

801. REVIEW

- A. Status offense arraignments, appearances, adjudications, dispositions, reviews and contempt matters shall be scheduled pursuant to the schedule in 28RFFC 201 or at any other time set by the Family Court Judge to promote judicial economy and in compliance with the Juvenile Court Rules of Procedure and Practice (JCRPP).
- B. Any motion, except contempt, filed on the Status “J” docket shall be filed one week in advance of the court date. All Motions for Contempt shall comply with 28RFFC 204.

RULE 9 MISCELLANEOUS

901 HEARINGS AND DISCOVERY

901.1 Contested Hearings.

- A. A contested hearing is one in which the parties have not agreed upon the division of property, debts, custody, support and the taking of evidence to permit the court to render a determination if necessary.
- B. If the contested issues are not resolved, the matter may be referred by the Court to a mediator or evaluator or both at the Family Court Judge's discretion and in compliance with FCRPP 2(6). Each party shall present any pertinent motions; stipulations, and agreement reached; any witness, exhibit, and document lists, with appropriate information attached; and final financial statements in accordance with the FCRPP.

901.2 Mediation.

- A. If mediation is ordered by the Court, the following mediation rules shall apply:

- 1. Preamble and Scope.

The Family Court of the 28th Judicial Circuit finds that under some circumstances, the process of mediation may provide an efficient and cost effective alternative to traditional litigation, and further, that the wise and judicious use of mediation may benefit litigants.

Mediation is intended to help both litigants and the Court facilitate the settlement of disputes. Litigants should participate in good faith and in an earnest attempt to resolve their differences.

This Rule refers to mediation. Nothing in this Rule shall prohibit parties from resolving disputes through other methods.

2. Mediation defined.

Mediation is an informal process in which a neutral third person(s) called a mediator facilitates the resolution of a dispute between two or more parties. The process is designed to help disputing parties reach an agreement on all or part of the issues in dispute. Decision making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.

3. Referral of Cases to Mediation.

At any time after the initial hearing as required by FCRPP 2(6), on its own motion or on motion of any party, the Court may refer a case or portion of a case for mediation or such other Alternative Dispute Resolution method as agreed upon by the parties. In this decision, the court shall consider:

- a. The state of litigation, including the need for discovery, and the extent to which it has been conducted;
- b. The nature of the issues to be resolved;
- c. The value to the parties of confidentiality, rapid resolution, or the promotion or maintenance of ongoing relationships;
- d. The willingness of the parties to mutually resolve their dispute;
- e. Other attempts at dispute resolution; and
- f. The ability of the parties to participate in the mediation process;

- g. No contested hearing shall be scheduled prior to mediation being attempted if ordered by the court unless it is subsequently waived by the Court.

4. No stay of Proceedings.

Unless otherwise ordered by the Court, mediation shall not stay any other proceedings.

5. Appointment of Mediator.

The parties may agree on a formal mediator or mediation service. If the parties cannot agree, they shall notify the court, which will select a formal mediator or a mediation service.

6. Mediator Compensation.

The formal mediator shall be compensated at the rate agreed upon between the mediator and the parties. Unless otherwise agreed by the parties or ordered by the Court, the parties shall equally divide the mediator's professional fee.

7. Mediation Procedure.

Following selection of the mediator, the mediator shall set an initial mediation conference within thirty (30) days.

The mediation conference shall be held at the Pulaski County Judicial Center or at a site agreed upon by the parties and the mediator when a private mediator is utilized. The mediator may meet with the parties or their counsel prior to the mediation conference for the purpose of establishing a procedure for the mediation conference. The mediator may require the parties to submit a confidential statement of the case or other materials that

the mediator may deem appropriate for efficiently conducting the mediation conference.

8. Attendance at Mediation Conference.

If mediation is ordered pursuant to FCRPP 2(6), the parties must attend the mediation conference. Counsel shall attend the mediation conference unless otherwise agreed to by the parties and the mediator or ordered by the Court.

Each party shall bring to the mediation conference any and all supporting documents to support their position. Examples of such documents include but are not limited to the following:

- a. Documents supporting claims of non-marital property;
- b. Documents tracing non-marital property;
- c. Documents showing value of property;
- d. Tax returns for the last three (3) years;
- e. Pay stub's showing year to date earnings or sworn Statement from employer;
- f. Budget;
- g. Work schedule;
- h. Title to all vehicles;
- i. Deeds;
- j. Mandatory Case Disclosure Statement.

9. Failure to Appear

Upon motion, the Court may impose sanctions against a party if that party fails to appear at a duly noticed mediation conference, unless the party shows good cause why they failed to appear. Possible sanctions include, but are not limited to, an award of attorney's fees or other costs of mediation.

10. Completion or Termination of Mediation.

The mediator may terminate the mediation conference after a settlement is reached or when the mediator determines that

continuation of the process would be unproductive. After the initial mediation conference, mediation shall continue only by the agreement of the parties, their counsel, the mediator, or by the Court.

11. Report to the Court.

The mediator shall report to the Court that the mediation has been completed with or without an agreement on any or all issues. With the consent of the parties, the mediator may also identify those matters which if resolved or completed, would facilitate the possibility of a settlement.

12. Agreement.

If an agreement is reached during the mediation conference, it shall be reduced to writing and signed by all parties. The Mediator or parties' attorney shall be responsible for the drafting of the agreement, with the consent of the parties.

13. Confidentiality.

- a. Mediation sessions shall be closed to all persons other than the parties, their legal representative, and other persons invited by the mediator with the consent of the parties.
- b. Mediation shall be regarded as settlement negotiations for the purpose of KRE 408.
- c. Mediators shall not be subject to process requiring the disclosure of any matter discussed during the mediation, but rather, such matters shall be considered confidential and privileged in nature. The privilege and immunity reside in the mediator and may not be waived by the parties.
- d. Nothing in this rule shall prohibit the mediator from reporting abuse according to KRS 209.030, KRS 620.030, or other applicable law.

14. Staff Mediation.

Mediation services are available, without charge, by trained Family Court staff personnel for financially disadvantaged parties. To determine if parties qualify for informal staff mediation, parties or their counsel should contact the Family Court office to request an intake form. A completed intake form must be submitted prior to scheduling any mediation with the staff unless otherwise approved by the Family Court Judge. Staff mediators shall not communicate to the Court regarding any settlement efforts except as non-staff mediation techniques are reflected herein.

902 PROOF

Proof shall be taken by deposition if ordered by the Court. Either party or the Court on its own motion may hear the live testimony of the Parties. No such Hearing shall be conducted until all proof is taken. Attorneys should call the Judge's secretary to schedule a final trial or file motions for a final hearing date.

903 UNCONTESTED HEARINGS

The parties may, by leave of Court, request a live hearing if the parties have entered into and filed agreement resolving all issues. Prior to the hearing, counsel will present to the Court a proposed Findings of Fact, Conclusions of Law and Decree signed by both parties and all counsel. These hearings may be scheduled on regular motion hour days.

904 DISCOVERY

The parties may utilize discovery in accordance with the Kentucky Rules of Civil Procedure. In child support motions, pendente lite, modification of an existing child support obligation, or in a final hearing in which child support is at issue, counsel for each party shall conform with the FCRPP. It is the Court's position that a hearing is not the place for discovery; the interest of the children is the overriding concern. Therefore, in the event that the information is not forthcoming from a party upon written request and a subpoena is issued for compliance, then the cost of the additional attorney's fees and court costs shall be borne by the non-cooperating party.

905 SEALED RECORDS.

1. Only official court personnel may view the sealed portion of the record. All other individuals may view the sealed information with a properly noticed motion and the entry of a certified court order of the Judge to whom the matter has been assigned.
2. It is the sole responsibility of the counsel and the parties to ensure that all pleadings and other papers comply with the local rules of this Court requiring redaction of personal data identifiers. The clerk will not review each document for redaction.

906 VIDEO COPIES OF IN-CHAMBER INTERVIEWS WITH CHILDREN.

Pursuant to FCRPP 27, the Circuit Clerk's video office shall not release any Circuit Family Court video in-chamber interview with a child without a specific written order of the Family Court Judge. An individual requesting a judicial order must file a motion for the request which specifically indicates the portion of the video record being requested is an in-chamber interview with a child and specific purpose for the request.

907 REQUESTS FOR CONFIDENTIAL VIDEO RECORDS.

The Circuit Clerk's video office shall not release any copies of Circuit Court confidential video records, without a specific written order from the presiding Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child's Guardian ad Litem, if any, and set forth the purpose of the request.

Except that, pursuant to KRS 610.340(2), this shall not apply to public offenders or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by the Kentucky Revised Statutes, as certified by that public officer or employee. Said public officer or employee shall use and distribute this information only for investigation or prosecution of offenses under the Kentucky Revised Statutes.

908 Death of a Party

If a party dies during the pendency of any proceeding, the attorney representing the deceased party shall promptly notify in writing the Court and opposing counsel within 10 days of learning of the party's death.

909 Court Security

All persons, packages and containers are subject to search at any time by court security personnel. Weapons are not permitted in the Family Court courtrooms except by 1) court approved bailiffs, 2) law enforcement and judicial officers who are not personally a party to an action then being heard, and 3) such other security or personnel approved by the Court.

910 Courtrooms

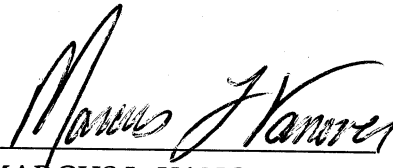
No smoking is permitted in any Court of Justice building including the courtrooms, adjacent hallways and stairwells. Food and beverages are not permitted within the courtrooms except when otherwise approved by the Court. Hats or inappropriate attire within the courtroom are prohibited.

911 Bias

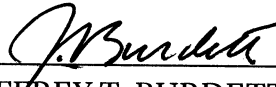
No person, during Court or in pleadings or other papers filed in Court, shall by words or conduct, manifest bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socio-economic status, towards any person. This Rule shall not be interpreted to restrict or preclude any attorney from the full and zealous representation of any client or issue.

912 Cameras, Recording Devices and Telephones

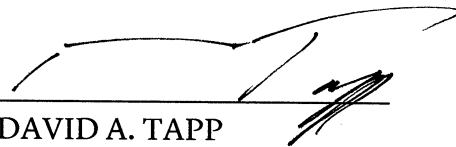
Except as otherwise provided by the Court, by separate Court order, or in these Rules, no person shall use any camera or recording device within any courtroom or judicial chambers, nor film, photograph or record any proceeding occurring within the courtroom or chamber from some vantage point located outside the courtroom or chambers. Cellular telephones shall be turned off or set to vibrate. Cellular telephones shall not be used while before the bench and no calls should be answered in the courtroom. Cellular telephones shall be permitted within the Court of Justice and may be used before the bench only if being utilized as an evidentiary exhibit at a hearing or for utilizing calendar applications for scheduling purposes.



MARCUS L. VANOVER
CIRCUIT/FAMILY COURT JUDGE
28TH JUDICIAL CIRCUIT
DIVISION III



JEFFREY T. BURDETTE
CHIEF CIRCUIT JUDGE
28TH JUDICIAL CIRCUIT
DIVISION II



DAVID A. TAPP
CIRCUIT JUDGE
28TH JUDICIAL CIRCUIT
DIVISION I

28TH JUDICIAL CIRCUIT TIMESHARE
AND PARENTING GUIDELINES

Age appropriate standard visitation shall include **but not be limited to:**

1. Every other weekend from 6PM Friday to 6PM Sunday.
2. One evening each week from 6PM to 8AM the next morning. The child shall be returned to the other parent, or taken directly to school if school is in session. This timeshare shall be on Wednesday evenings unless the parties agree otherwise.
3. Five weeks each summer to begin as the parties agree with the 3rd week (6PM Saturday to 6PM the following Sunday) timeshare back to the primary residential parent. If the parties cannot otherwise agree the timeshare will begin June 15th.
4. Alternate child's birthday-odd numbered years w/ the father and even numbered years w/ the mother. This includes mother's birthday each year with the mother and father's birthday each year w/ the father. This has priority over any other timeshare schedule.
5. Thanksgiving Break-NCP shall receive timeshare with the child from 6PM the day school releases until 6PM Sunday evening every **odd** year. The CP shall receive **even** numbered years, unless the parties otherwise agree.
6. Christmas Break-NCP shall receive their timeshare in **even** numbered years the day school is dismissed and keep the child until 12/25 at 12PM. In **odd** years the NCP will receive the child 12/25 at 12PM until two days before school resumes. This has priority over any other timeshare schedule.
7. The parties shall rotate Spring and Fall Breaks with the minor children. If they cannot otherwise agree the CP will receive Spring Break in **odd** years and Fall Break in **even** years.

8. Memorial Day and Labor Day-Whoever has the child in their possession will receive the child for that day unless the parties agree otherwise.
9. Mother's Day each year with Mom and Father's Day each year with Dad. Timeshare will be from 9AM to 6PM with priority over any other timeshare schedule.
10. The NCP shall notify the CP within 48 hours if they intend to **NOT** exercise their timeshare schedule. Unless notified the CP shall presume the NCP will exercise visitation in a timely manner.
11. The NCP shall pick up the child at the beginning of the timeshare and the CP shall pick up the child at the end of the timeshare if the parties live in the same county, unless they agree otherwise.
12. The child support obligation shall not abate during any timeshare period.
13. The residence of the child shall not be removed from the Commonwealth of Kentucky without first obtaining a modified timeshare order from the court.

The parties may alter or amend this visitation schedule by mutual agreement. Only mutual written agreements filed in the record may be enforced by this Court. Unless agreed to by the parties, or otherwise ordered by the Court, this timeshare schedule shall be followed.

28th Judicial Circuit Parenting Behavior Guidelines

1. **It is crucial that each parent** avoid using words or conduct that will interfere with the love and affection of the child for the other parent or siblings.
2. Do not have the child deliver money or messages from one parent to the other and thus placing the child in the middle.
3. Never ask the child to keep a secret from the other parent or siblings as this creates stress for the child and undermines the child's relationship between the parents and other family members, which may cause loyalty and emotional issues for the child.
4. Avoid questioning the child about events and activities at the other parent's home.

5. Never say unkind or disrespectful things about the other parent or siblings to the child or in the presence of the child.
6. Avoid conducting parental business at timeshare exchanges. Attempt to do so by phone or at scheduled times consistent with any applicable court orders.
7. Never make any threats or start arguments with the other parent when exchanging the child for visitation.
8. Always avoid placing the child in the position of having to "choose" by asking a child directly or subtly, "Which of us do you really want to be with"? This eventually undermines the child's relationship with both parents.
9. By agreement of the parents occasionally alter or change visitation if the child asks to do so.
10. Never require or encourage the child to refer to a paramour or stepparent as their parent. Doing so can be confusing and stressful for the child and contribute to anger and resentment.
11. Never eavesdrop, interfere, or interrupt the child's conversations with the other parent.

If either parent has reasonable grounds to believe these guidelines are being ignored or violated they may motion the Court for an order to show cause. Please be advised that if the Court determines a parent is attempting to undermine, interfere, or destroy the child's respect, affection or confidence in the other parent their visitation may be hindered. Willful or patterned disregard to these guidelines may affect or limit a parent's right to visitation and or custody.

28TH JUDICIAL CIRCUIT COURT, DIVISION III

ADOPTION CHECKLIST

Case No.: _____ Date: _____

Case Style: _____ Attorney(s) _____
 _____ Attorney(s) _____
 _____ Attorney(s) _____

vs.

_____ Attorney(s) _____
 _____ Attorney(s) _____
 _____ Attorney(s) _____

- | | | |
|-----|----|---|
| Yes | No | (Please check one) |
| — | — | Is the party petitioning for adoption 18 years old?
KRS 199.470(1) |
| — | — | Has the party petitioning for adoption resided in Kentucky for twelve (12) months prior to the filing of the petition?
KRS 199.470(1) |
| — | — | Is the child to be adopted named as a defendant?
KRS 199.480 (1) (a) |
| — | — | Is the petitioner married?
If yes, the spouse of the petitioner must be joined unless the Court finds doing so will deny the child a suitable home
KRS 199.470(2) |
| — | — | Is petitioner's husband or wife the biological parent?
If yes, then the biological parent shall be named as a party defendant
KRS 199.480 (1) (b) |
| — | — | Is the petitioner a relative of the child as defined by KRS 199.470(4) such that approval by the Cabinet for Health and Family Services, a licensed agency or the Secretary for the Cabinet for Health and Family Services is |

not required? KRS 199.470 (4)(a-b)

— Did the petitioning party comply with KRS 199.473?

— Are all necessary parties joined as defendants?
KRS 199.480 (1)

— Have all the parties been properly served?
KRS 199.480 (2)

— Is this a stepparent adoption? KRS 199.470 If yes, NO approval from
CHFS required. (GAL is not required either).

— Has an investigation been completed by the Cabinet for Families and
Children as required by KRS 199.510 (1) (a-c)?

If yes, a final hearing may be scheduled if the report by the
Guardian ad litem, if any, has been filed.

KRS 199.515

— Has a guardian ad litem been appointed for the child?

— Yes — No The Cabinet for Health and Family
Services?

— Yes — No An agency licensed by the Cabinet for
Families and Children?

Note – Placement by one of the above agencies does not alleviate the
need of a report, as required by KRS199.510, from the Cabinet or a
designee chosen by the Cabinet or the Court.

— If the child has not been placed for adoption by one of the three ways
listed above has the child resided continuously in the home of the
petitioner for at least 90 days immediately prior to the filing of the
petition?

— Does any exception to the placement rule apply?
KRS 199.470 (4)(a-b)

— Does the petition contain all the necessary information?
KRS 199.490

— Has a notarized consent form been filed? KRS 199.500
— Yes — No Does it comply with KRS 199.011(14)?

— If notarized consent has not been filed, do any of the exceptions to
consent apply?
KRS 199.500 (1)(a-d) or KRS 199.502

- — Does this Court have proper jurisdiction over this adoption?
- — Is Pulaski, Lincoln or Rockcastle the proper venue?
- — Have parental rights been previously terminated?
— Yes — No If yes, have certified copies of the termination
Order been filed as required?
KRS 199.490(2)
- — Has the petitioner tendered a proposed Findings of Fact, Conclusions of
Law and a separate Judgment of Adoption?

RESPONSIBILITY OF APPOINTED GUARDIAN AD LITEM IN TERMINATION PROCEEDINGS

Any attorney appointed as *Guardian ad Litem* in either a voluntary termination, an involuntary termination, or an adoption case must be prepared to be available on short notice. Cases of these nature are, by statute, entitled to expedited hearings and it is extremely important that *Guardian ad Litem*s carry out their functions promptly and efficiently.

VOLUNTARY TERMINATION

For an underage birth parent:

- Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.
- Meet with or speak by phone with the birth parent and/or next friend prior to the day of the hearing.

For an infant:

- Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.
- A brief meeting with the birth parent(s) prior to court on the day of the hearing is recommended.

INVOLUNTARY TERMINATION

For an underage birth parent:

- Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.
- Meet with or speak by phone with the birth parent prior to the day of the hearing.

For an infant:

- Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.

Responsibilities of a *Guardian ad Litem*

In October 1999, the Commission on Guardians ad Litem recommended the following as the responsibilities of a *guardian ad litem*:

- A GAL should determine the facts of the case by interviewing the child, Cabinet for Families and Children family services worker, family members, therapist and others as necessary, and by reviewing reports and other information. When interviewing a child is impractical (due to age or other circumstances), inspection of the home or place of care and/or an interview with the foster parent or caretaker is an adequate substitute. If these events do not occur, perhaps due to hostility toward the GAL or Other safety concerns, the GAL should document the reason the action did not occur.
- A GAL should meet with and observe the child, assess the child's needs and wishes with regard to the representation and issues in the case, and explain the proceedings to the child according to the child's ability to understand.
- A GAL should appear at all hearings concerning the child.
- A GAL should make recommendations for specific and clear orders for evaluation, services, and treatment for the child and the child's family.
- A GAL should file all necessary pleadings and papers, and maintain a complete file with notes rather than relying upon court files.
- During the term of the appointment, a GAL should monitor the implementation of court orders and determine whether service(s) ordered by the court for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. If a GAL believes services are not being provided in a timely manner, or if he/she believes the family has failed to take advantage of these services, or if the GAL believes the services are not accomplishing their purpose, he/she should file a motion for appropriate relief. The GAL should assess whether the Cabinet for Families and Children is making reasonable efforts as defined in state and federal law and should challenge the adequacy of those efforts when appropriate.
- Representation by the GAL continues so long as the appointing authority retains jurisdiction over the child.
- Consistent with the Rules of Professional Responsibility, a GAL should identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter.
- A GAL should consult, as necessary and consistent with existing rules of confidentiality, with other persons knowledgeable about the child and the child's family to identify the child's interests, current and future placements that would be best for the child, and necessary services for the child.
- A GAL should submit, as ordered, an oral or written report to the court.
- A GAL should advocate the child's best interests, but advise the court when the child disagrees with the attorney's assessment of the case.

28TH JUDICIAL CIRCUIT COURT, DIVISION III

INVOLUNTARY TERMINATION OF PARENTAL RIGHTS CHECKLIST

Case No.: _____

Date: _____

Case Style: _____

Pet. Attorney: _____

Vs.

Resp. Attorney: _____

Attorney: _____

.....
CONCERNING THE PETITIONER AND RELATED MATTERS:

Yes	No	(Please check one)
—	—	Does the petition contain the verification and all required information? KRS 625.050(1) + (4))
—	—	Was the petition filed by a proper party? (KRS 625.050 (3))
—	—	Was the petition filed five (5) days or more after the child's birth? (KRS 625.050 (5))
—	—	Are all required parties joined in the action? (KRS 625.060)
—	—	Is the putative father correctly joined as a party? (KRS 625.065 (1))
—	—	Have all the parties been properly served? (KRS 625.070)
—	—	Does this Court have proper jurisdiction over the matter? KRS 625.020 + 625.050 (2)

TECHNICAL MATTERS CONCERNING THE HEARING:

—	—	Have all the requirements for the hearing been met pursuant to KRS 625.080? (i.e., <i>Guardian Ad Litem</i> , appointed attorney for an indigent party, sealing of records, etc.)
---	---	--

28th JUDICIAL CIRCUIT COURT, DIVISION III

VOLUNTARY TERMINATION OF PARENTAL RIGHTS CHECKLIST

Case No.: _____

Date: _____

Case Style: _____

Attorney(s) _____
 Attorney(s) _____
 Attorney(s) _____

vs.

Attorney(s) _____
 Attorney(s) _____
 Attorney(s) _____

- | Yes | No | (Please check one) |
|-----|-----|--|
| ___ | ___ | Is the petition styled In the interest of _____, a child?
KRS 625.040(1) |
| ___ | ___ | Does the petition contain all the required information?
KRS 625.040(2) |
| ___ | ___ | Was the petition filed 72 hours or more after the child's birth?
KRS 625.040(3) |
| ___ | ___ | Is the parent desiring termination indigent?
If yes, was an attorney appointed within 48 hours of court's
determination? KRS 625.0405(1) |
| ___ | ___ | Did the adoptive parents pay any expenses for the biological parents?
If yes, were the expenses submitted to the Court, supported by an
affidavit, setting forth in detail a listing of the expenses for the
Court's approval or modification?
KRS 625.0405(2) |
| ___ | ___ | Do the adoptive parents and the biological parents have different
representation?
KRS 625.0407 |

Supreme Court of Kentucky

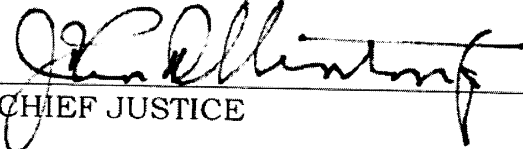
ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 28TH JUDICIAL CIRCUIT AND DISTRICT AND THE 13TH JUDICIAL DISTRICT, LINCOLN, PULASKI, AND ROCKCASTLE COUNTIES

Upon the recommendation of the Judges of the 28th Judicial Circuit and District and the 13th Judicial District, Pulaski, Rockcastle, and Lincoln counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 28th Judicial Circuit and District and 13th Judicial District is hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further orders of this court.

Entered this 11th day of December 2015.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
28th JUDICIAL CIRCUIT AND DISTRICT
13th JUDICIAL DISTRICT
LINCOLN, PULASKI AND ROCKCASTLE COUNTIES**

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rule of Practice and Procedure Section IV, this local protective order protocol is established to ensure twenty-four hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

I. Uniform Protocol for Handling Cases

- A. All petitions requested, completed and signed by persons seeking protection under KRS Chapter 403 or KRS Chapter 456 shall be made on form AOC-275.1, and shall be accepted and filed with the court. KRS 403.725, KRS 456.030.
- B. All protective order cases must be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.
- C. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- D. "No drop" policies which place limitations on a petitioner's right to modify or withdraw a petition for a protective order are not permitted. Pursuant to KRS 403.740 and KRS 456.060, any orders for relief issued directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.
- E. Cases may be reassigned within the judicial circuit and, pursuant to FCRPP 12, a case may be transferred to another circuit if there is a pending dissolution or custody matter. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.
- F. The court shall review a petition for a protective order immediately upon its filing. KRS 403.730, KRS 456.040. Petitioners shall not be sent away or left waiting for extended periods of time. Petitions should be reviewed within an hour of presentation to a judge or trial commissioner unless impossible due to no judge or trial commissioner being available.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:

The Circuit Clerks of Lincoln, Pulaski and Rockcastle Counties, and all of their sworn deputies;

- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:

The Sheriff's of Lincoln, Pulaski and Rockcastle Counties and all other sworn deputies and dispatchers;

The Jailers of Lincoln, Pulaski and Rockcastle Counties, and all of their sworn deputies;

The County Attorney's of Lincoln, Pulaski and Rockcastle Counties, and any Assistant County Attorneys or office staff employees;

The Chief of Police for the cities of Stanford, Somerset, Mt. Vernon, and any other incorporated city in Lincoln, Pulaski or Rockcastle Counties, and all sworn officers and dispatchers within their departments;

Any Kentucky State Police officer found in Lincoln, Pulaski or Rockcastle counties;

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

To the Family Court Judge, or if unavailable, the District Judges or to the Trial Commissioner, in that order. If neither is available, the clerk shall cause the petition to be delivered for consideration to any Circuit Judge.

Petitions filed with the Clerk or other authorized entity shall be directed to the appropriate Judge or Trial Commissioner for review as soon as reasonably possible, not to exceed one hour of filing, EXCEPT in circumstances where the Judge or Trial Commissioner is unavailable.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The Trial Commissioner, or if unavailable the District Judges, or the Family Court Judge in that order. If neither is available, the clerk shall cause the petition to be delivered for consideration to any Circuit Judge.

III. Assignment of Cases

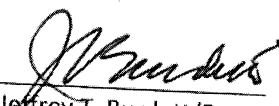
- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district, circuit, and family court.
- B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action is a domestic violence action under KRS Chapter 403 or an interpersonal protective order action under KRS Chapter 456.
- C. The circuit clerk shall assign interpersonal protective order cases to the Family Court.
- D. The schedule for hearings on protective orders is as follows:
 - Lincoln Family Court on Thursday at 9:00 a.m., per a printed schedule prepared and distributed monthly to appropriate court personnel;
 - Pulaski Family Court on Wednesday at 9:00 a.m., per a printed schedule prepared and distributed monthly to appropriate court personnel;
 - Rockcastle Family Court on Tuesday at 9:00 a.m., per a printed schedule prepared and distributed monthly to appropriate court personnel;
- E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

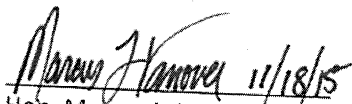
IV. Contempt Proceedings

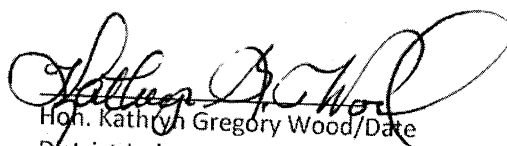
- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- B. Petitioners seeking to initiate contempt proceedings should contact:
 - The Circuit Clerk, County Attorney, any Law Enforcement Agency or Peace Officer.
- C. No petitioner may be held in contempt for failure to appear at a domestic violence hearing or prosecute a criminal violation of a protective order.


The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

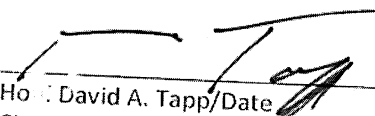
The above protocol is adopted by all judicial officers in the circuit:

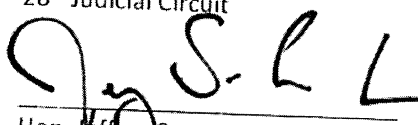

Hon. Jeffrey T. Burdett/Date
Chief Circuit Judge
28th Judicial Circuit

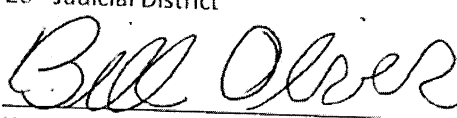
 11/18/15
Hon. Marcus L. Vanover/Date
Family Court Judge
28th Judicial Circuit


Hon. Kathryn Gregory Wood/Date
District Judge
28th Judicial District

 11-24-15
Hon. Janet Booth/Date
District Judge
13th Judicial District


Hon. David A. Tapp/Date
Circuit Judge
28th Judicial Circuit


Hon. Jeffrey Scott Lawless/Date
Chief District Judge
28th Judicial District


Hon. Bill Oliver/Date
District Judge
13th Judicial District